Bench Press



Newsletter of the Iowa Judicial Branch

March-April 2002

FY 03 Appropriation Announced: Tough Times To Continue

s it winds down to adjourn for the year, the Legislature has been working on appropriation bills for the fiscal year 2003 budget. Expect more budget cuts. The Legislature has imposed another round of cuts on most state agencies and programs to cope with the worst revenue growth in decades. The appropriation to the Judicial Branch for fiscal year 2003 is —\$111.4 million for operations, three million less than the Court had requested.

"The Court is disappointed with the appropriation," said Chief Justice Lavorato. "In a nutshell our resources have been cut again and our operating expenses are going up."

The Legislature also failed to adequately fund the salary bill that covers salary increases and related costs for all state government employees and officials. The bill provides \$4 million to the Judicial Branch for salaries — the Judicial Branch needs between \$4.5 million and \$5 million.

The Legislature reduced the amount of the state's contribution to the judicial retirement fund, a move that will delay progress toward making that fund actuarially sound. The appropriation to the fund is \$3 million; the Court had asked for \$3.7 million as recommended by the fund's actuary.

The Judicial Branch's pleas for legislative changes that would help reduce its operating costs fell on deaf ears. Bills to eliminate the statutory mandate for 99 official clerks, to set up a new process for

reorganizing the judicial districts, and to streamline procedures, all died for lack of support.

"Not only has the Legislature failed to adequately fund the court system, it has failed to give us the flexibility we need to better manage the cuts it imposed. Legislators want the status quo in services but they don't want to pay for it," said Chief Justice Lavorato.

During the session many legislators tried to reinstate the court services that had been cut such as satellite magistrate offices and public hours for clerks of court. Chief Justice Lavorato remarked, "How can legislators rationally expect business as usual after gutting our budget? They cannot. Public service will suffer as a consequence of the budget cuts the Legislature imposed."

During the past year, many court employees have suggested raising court fees to help the Judicial Branch through the budget crisis. However, the Supreme Court did not propose any fee increases for two reasons: high fees tend to block access to the courts and new revenues from increases in court fees historically have not benefited the court system, but have ended up in the general fund.

This session, at the suggestion of the Iowa State Bar Association, the Legislature approved a bill that raises a variety of court fees, from the civil filing fee to the fee for filing a lien, for a total of \$3 million in new revenue for the state. Despite the

Bar Association's call late in the session to have the fees linked to full funding of the Court's budget request, none of the new revenue was earmarked for the court system. Legislators maintain that the courts would have been cut more had it not been for the fee bill. Court officials point out that the result was predictable.

So what happens next?

The Supreme Court will meet this month to try to balance the Judicial Branch budget. The Supreme Court has been waiting to see the budget picture for FY 2003 before it acted to balance the \$2.2 million cut imposed last month by the Legislature for FY 2002. The picture isn't pretty and the decisions won't be easy. The courts have another tough year ahead.

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Legislative Report

April 11, 2002

he following summary contains information about the status of legislation of interest to the courts as of April 11, 2002. To view the text of the bill or review bill history, visit www.legis.state.ia.us.

House Files

HF 518 – Small Claims. Increases jurisdictional amount from \$4000 to \$5000 for actions commenced on or after July 1, 2002. Signed by Governor.

HF 678 – Parenting Agreements/Rules.

The Court must require parties in a dissolution or domestic relations action involving a child to participate in mediation, which shall include receiving assistance in completing a "parenting agreement." A parenting agreement is an agreement that specifies the details of any visitation. Requires judge to consider joint physical custody. To Governor.

HF 2153 – Victim Impact Statement in Court. Requires defendant to be present in court for victim impact statement. Signed by Governor.

HF 2190 – Foreign Adoptions. Signed by Governor.

HF 2191 – Judges as Notaries. To Govenor.

HF 2201 – Mandatory DNA Testing. Requires all felons to submit a specimen for DNA profiling. House concurs with

senate amendment. To Governor.

HF 2230 – OWI 3rd. Requires a mandatory minimum period of incarceration for a third or subsequent offense for imprisonment in the county jail. Signed by Gover-

HF 2264 – Informed Consent/Abortion. Vetoed by Governor.

HF 2278 – Zero Based Budgeting. House Appropriations.

HF 2291 - City Judgment Liens. Allows a city to discharge a judgment lien against city owned real estate if the city files a bond for the judgment amount with the district clerk of court. To Governor.

HF 2338- Sex Offenders. Requires registration of sex offenders who are attending college, in county in which college is located. Signed by Governor.

HF 2339 – Supersedeas Bonds. Allows district court to waive supersedeas bond

for state or local government entities. Limits amount of bonds in civil cases. (See also HF 2052). Senate Calendar.

HF 2395 - Child Support and Social Security. Changes medical support and the calculation method of child support if a child or parent receives social security payments. (See SF 2270). Signed by Governor.

HF 2399 – Case Permanency Plans/ Foster Care Aging Out. To Governor.

HF 2495 - No Contact Orders. Allows issuance of no contact orders to protect victims of 1, 2, and 3 sexual abuse and the family members. To Governor.

HF 2506 – No Contact Orders. Allows the court to issue a no contact order when a sex offender is to be released from jail or prison. Signed by Governor.

HF 2507 – Anthrax Penalties. Signed by Governor.

Continued on page 3

The *Iowa Bench Press* is published bimonthly by the State Court Administrator's Office to keep court personnel informed about court policy, projects, programs, and activities. Articles express the views of the authors or the editor and not necessarily those of the Iowa Judicial Branch.

The Iowa Bench Press

welcomes your ideas, articles and criticisms. All rights are reserved to edit or reject any materials submitted for publication. Please direct your inquiries and news suggestions to:

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Visit the Iowa Judicial Branch web site at: www.judicial.state.ia.us

Legislative Report

Continued from page 2

HF 2531 — Trust Code. To Governor.

HF 2532 – Public Retirement Systems.

Among other things, this bill ensures that the retirement benefits of employees, officials and judges will not be affected by any reduction in hours due to furloughs. Conference Committee.

HF 2536 – Central Website for RFPs. Signed by Governor.

HF 2546 – Assault. General intent. Signed by Governor.

HF 2552 – Drug Offenses. Signed by Governor.

HF 2559 – Child Protection Confidentiality. Senate Calendar.

HF 2563 – Indigent Parole Representation. Senate Calendar.

HF 2614 - Infrastructure Fund.

HF 2623 – Salary Bill. Funds salary increases for state employees. Provides \$4 million to Judicial Branch for salary increases.

Senate Files

SF 415 – DAJ: Felony Arraignments and Jurisdiction. Expands the jurisdiction of DAJs to include class "D" felonies and arraignments for other felonies. To Governor.

SF 2034 – Indictment or Information.

Tolls filing period when defendant is out of state. House Calendar.

SF 2098 – Computer Crimes. Signed by Governor.

SF 2100 – Dating Violence. Expands definition of domestic abuse. Signed by Governor. Effective July1.

SF 2106 – Covenant Marriages. House Calendar.

SF 2141 – Sheriffs/Civil Process Servers. (See HF 2366). Signed by Governor.

SF 2144 – OWI .08 BAC. House Calendar.

SF 2146 – Terrorism. Penalties. To Governor.

SF 2192 – Transporation/Appeals in Condemnation Cases. Signed by Governor.

SF 2197 – Sex Offender Registration.

Prohibits offender from residing near childcare facility. House Calendar.

SF 2212 – Landlord Liens. Secured transactions and liens. Signed by Governor.

SF 2267 - Judicial Districts. Process for reorganizing judicial districts. Requested by the Judicial Branch. House Calendar.

SF 2283 – Clerks of Court, Clerks' **Duties, Judges, etc.** The judicial branch requested this bill. Senate Appropriations.

SF 2286 - Sexual Predator Commitments. Transitional release, dual commitment and other changes. House Calendar.

SF 2288 – Temporary County Attorney. Signed by Governor.

SF 2301 Public Defender Duties. Signed by Governor.

SF 2304 – FY 2002 De-Appropriations. Among other cuts, takes \$2.2 million from Judicial Branch for current fiscal year (FY2002). Signed by Governor.

SF 2326 - Omnibus Appropriations.

Among other things this bill includes the appropriation to the Judicial Branch and requires the Supreme Court to study the operations of the clerks of court offices. The bill also provides that a vacant clerk of court position cannot be filled without the prior approval of State Court Administration. The Governor has said he will veto this bill.

The Governor's office announced on Tuesday that the Governor will call the Legislature back for a special session on April 22.

Court Plan Studies of Components of Trial Court System

he Supreme Court has tentatively approved a plan to establish a number of committees to conduct in-depth studies of the operations of various components of the trial court system, including district court administration, juvenile court services and the clerk of court offices. The purpose of the studies would be to eliminate disparities between districts, develop or update workload formulas and to identify best practices for statewide adoption.

"The legislature did not give us more resources for the next fiscal year; nor did it provide us with more management flexibility. Consequently, we must make do with what little we have," said Chief Justice Lavorato. "We need to identify best practices so we can manage our resources more effectively. Increasing uniformity will help us allocate our scarce resources as fairly as possible."

Clerks' Workload Formula.

The Court plans to establish a committee to update the current clerk of court workload formula, commonly referred to as the Honsell formula. The Honsell formula was created in the mid-1990s as an objective method for staffing clerk of court offices. In the past, whenever the Judicial Branch requested funds for new staff for clerks' offices, it relied on the formula to back up the request.

In recent years, some clerks have recommended that the formula be revised to reflect changes in procedures and caseload in the past decade. The accuracy of the formula was further questioned after the Judicial Branch cut back clerk of court staff to help manage its \$5.2 million budget cut imposed by the Legislature last fall.

A 15-member steering committee composed mostly of clerks will oversee the study, which would include an assessment of the current formula and new statewide time study.

Juvenile Court Services.

Another study tentatively approved by the Court would examine juvenile court services. The Court wants an advisory committee to assess the disparities between districts with regard to the business practices, client services and staffing levels. In addition, the committee would recommend uniform practices and procedures, and develop a statewide workload formula for juvenile court officers and support staff.

The committee would review the juvenile restitution program and assess its viability for the future. Last year the Legislature eliminated funds for the program, and the Court cut restitution staff to help manage the budget cuts last fall.

Tentative plans call for a 15-member committee composed of nine juvenile court officers, two juvenile judges and others.

District Court Administration.

A third study committee would be responsible for assessing the disparities in practices and staffing between the judicial districts with regard to all aspects of district court administration including its various components — case scheduling, finance, human resources, purchasing, law clerks, court reporters, court attendants and other office functions. The committee would be asked to study the possibility of centralizing certain functions, to eliminate overlapping functions and to propose uniform practices, procedures and staffing levels.

Because the broad scope of district court study, the main committee would act as a steering committee to oversee the work of subcommittees assigned to study individual court functions. The steering committee would be composed of five judges, members of the different court components and others.

Management of Clerks Offices.

The Court plans to create another committee to tackle an urgent problem: helping clerks manage in the aftermath of the recent reduction in workforce. The committee would assess the capacity of the clerks' offices for providing services under present conditions and propose strategies aimed at maximizing current resources. The study committee would review statutory and non-statutory duties of the clerks and make recommendations for changes that would streamline procedures and eliminate obsolete or redundant practices. In addition, the committee would identify and recommend best office practices for statewide adoption.

This committee would be composed primarily of clerks of court.



Strong Rise in Court Receipts Contrasts with Gloomy State Revenue Picture

ccording to the State Court
Administrator's Office, court
generated revenue for fiscal year
2002 through March has increased 7%
compared to the same period in fiscal year
2001. The increase in court-generated
revenue is a bright spot in an otherwise
gloomy revenue picture for the state.

The latest report of receipts shows that the courts have collected \$3.4 million more than last year at this time. But not all categories of fines and fees have increased. For example, fees for indictable

crimes, parking violations dropped 19% and 29% respectively. Court costs collected for scheduled violations requiring a court appearance and other simple misdemeanors decreased 8%. However, these amounts were offset by strong rises in fees for scheduled violations (7%), fines and forfeited bail (10%), fines for no proof of insurance (21%), criminal surcharge (8%), commercial vehicles (13%) and others.

The increase in court revenue has benefited county and city coffers as well. Court generated revenue to local government has increased 9% or more than \$564,000.

In contrast, year-to-date total revenue to the state general fund has decreased, coming in at a dismal negative 0.5% compared to last fiscal year. Corporate income tax receipts are down more than 10%, personal income tax revenues are down nearly 3%, but sales tax receipts are up 2%.



Spring Bar Exam Results: 69% Pass Rate

he results of the spring Iowa State Bar Examination are in: 45 of the 65 applicants were admitted to the practice of law in Iowa. The exam was administered February 25-27 in Iowa City.

In all, students from 26 law schools participated in February's exam. Fifty-eight percent of those taking the exam were from Drake or the University of Iowa. Of the 14 Drake students that took the exam, nine passed. Of the 24 University of Iowa students that took the exam, 15 passed. Two of five Creighton University law students passed the exam.

Among the out-of-state schools represented, there were three graduates from

Thomas M. Cooley, and one each from Brigham Young University, Harvard, Marquette, John Marshall Law School, Northern Kentucky, University of Chicago, University of Denver, University of West Virginia, University of Arkansas-Little Rock and University of Florida.

Congratulations to our new lawyers.

Mediation in Iowa

by Annie Huntington Tucker

The use of mediation is increasing throughout Iowa. What follows is a general report on primarily family and small claims mediation in each of the judicial districts. Mediation is also used in other civil cases and in civil rights cases.

- 1. In the First District, both Dubuque and Waterloo have small claims mediation programs. Attorneys in Dubuque have expressed interest in starting a family mediation program. There is currently some family mediation in Black Hawk County.
- 2. Last year, the Second District discontinued its family mediation program. At a judges' meeting this fall, there was discussion of proposed changes affecting case flow management and ordering mediation in family law cases. No proposal was passed.
- 3. In the Third District, District Court Administrator Leesa McNeil reports that they are starting a permanency mediation program for custody issues.
- 4. In the Fourth District, District Court Administrator Kent Wirth reports that while there are no court sponsored programs in small claims or family law cases, there are independent mediators who mediate some civil cases.
- 5. In the Fifth District, the family mediation program is having a significant impact on family law cases and the court's caseload. The Polk County Small Claims Mediation Program has been processing a caseload that approximates one district associate judge's time per year.

According to Judge Constance Cohen, Polk County reports it is part of a court improvement project introducing mediation of termination of parental rights cases. There are a number of such programs throughout the state. There is also a strong restorative justice program in the Polk County Attorney's office.

- 6. In the Sixth District, the Family Mediation Program is in its fifth year, with over 1300 cases mediated. It has reduced the wait for trial dates from 5-6 months to 2-3 months. It has reduced the number of temporary custody and visitation hearings by 60%. Some attorneys say it has changed the way they practice. The small claims mediation programs in Linn and Johnson Counties are doing the work of 20% of a district associate judge and the work of a full-time magistrate, respectively.
- 7. In the Seventh Judicial District, District Court Administrator Thomas Betts reports there is some voluntary mediation in domestic and civil cases, which is usually initiated by the attorneys. Settlement conferences are currently more common than mediation, and the two processes have significant differences. There are small claims mediation programs in the three largest counties in the district: Scott, Clinton and Muscatine counties.
- 8. In the Eighth District, interest in mediation is increasing. Lois Crane, director of the Eighth Judicial District mediation programs, has started small claims mediation programs in Henry, Des Moines, Jefferson and Lee counties. Lois trains the local volunteer mediators and has them begin by co-mediating with more experienced mediators. A roster of 17 family law mediators in the Eighth District is now available in all the courthouses.

Mediation can benefit the parties and the court system. Mediation gives parties an opportunity for self-determination, a chance to make their own decisions. Mediation does not replace attorneys. Family Mediation Program materials encourage parties to consult with an attorney.

Mediation does not replace judges, since judges must always review and accept or reject a mediated agreement. Mediation does save judges time, allowing them to attend to other civil and criminal litigation



in a more timely way. Mediation is a good investment for everybody.

This list is not complete. Nevertheless, it indicates that there is widespread use of mediation in Iowa.

Annie Huntington Tucker

Annie is the Director of the Sixth Judicial District Family Mediation Program and the Johnson County Small Claims Court Mediation Program. She is a mediator in divorce and custody, employer-employee, small claims, civil rights, and victim-offender cases. She is a mediation and conflict resolution trainer. She has a Masters in Conflict Resolution from Antioch University.

Juror Survey Shows Favorable Views of Jury Process

ccording to the results of a survey of jurors conducted by the clerks of court last year, most Iowans who served on a jury are pleased with many aspects of the jury management process. In fact, they were so pleased that the opinions many had of jury service improved after they served as a juror.

Jurors gave court staff high marks: 80% of the survey respondents rated their treatment by court staff as "very good." Another 19% rated the treatment by staff as "good."

"On behalf of the other justices, I applaud court staff for a job well done," said Chief Justice Lavorato. "The survey confirms what we knew all along, that our court staff does a first rate job when it comes to public service."

Jurors also gave favorable ratings to the orientation program: 49% considered it "good" and 40% "very good".

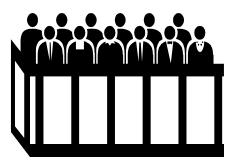
When asked to rate "scheduling of your time," 49% responded "good" and 24% said "very good."

Most jurors found the facilities satisfactory: 41% responded that the physical comforts at the courthouse were "good" and 25% found them "very good."

Jurors feel safe in the courthouse: nearly 50% rated personal safety as "very good," and 40% rated it "good."

Jurors view about parking were not as favorable as their views of other matters: 30% found parking "very good," 37% rated it "good" and 27% characterized parking as "adequate."

One of the most interesting findings is that jury service tended to improve citizens' perceptions of the jury process. When asked their opinion of jury service before their recent jury duty, 48% reported a favorable opinion, 44% were neutral and just 6% had an unfavorable opinion.



When asked their opinion of jury duty after their recent jury experience, 48% responded that it was "better than before" and 48% said their opinion had not changed. However, among those who previously held an "unfavorable" view of jury service, 76% reported that their opinion was "better than before." Even among those who previously held a favorable opinion of jury service, 39% reported that their opinion was "better than before." Only 4% of all respondents reported that their opinion of jury duty was "worse than before."

"In recent years, the Judicial Branch has taken many steps to make jury duty more convenient and our efforts have paid off," added Chief Justice Lavorato. "The juror questionnaires are a valuable tool for measuring the courts' performance. I want to thank the clerks and their staff who helped with this effort."

The survey also revealed some interesting, but perhaps predictable, demographics. Seventy percent of jurors were employed fulltime, 15% were retired, 11% worked part-time and 4% were unemployed. More than three-quarters of all jurors reported that they did not lose any income due to jury service. Half of all jurors were between 40 and 59 years old; most were women (57%), and 95% were of European descent. Sixty-three percent of jurors had never been called for jury duty before, and 77% said they had never been on a jury before.

More than 1300 jurors from 46 counties completed and returned questionnaires that were handed out to jurors in April and October of 2001.

Scott County Juvenile Court Services



Left to right: front row—Mary "Fritz" Hayman, Deb Janke, Kathy Gaylord, Patricia Hendrickson, Kathy Biscontine; second row—Sandy Benningfield, Donna Gardner, Erin Altheide, Diane Hansen, Cindy Elgatian, Mary Allen, Carol Venden, Mike Kane; third row—Tom Bradley, Lynn Fitzgerald, Sherry Foster-Hardy, David Lawson, Rose Ann Van Acker, Judge John Mullen, Miguel Trevino, DeVon Binion, William Dean, Jason Anderson.



Judicial Branch Award

Chief Judge Nahra (left) and Justice Linda Neuman (right) present Pat Hendrickson of Davenport with 2001 Meritorious Service Award. Pat has served as Chief Juvenile Probation Officer for over 20 years.

New Faces

<u>District 2:</u> **Jean McNeil Dunn,** *Eldora,* Magistrate.

<u>District 3:</u> **William Meier**, *Sioux City*, JCO-Drug Court; **Cristi Bauerly**, *LeMars*, Court Reporter.

<u>District 5:</u> **Odell McGhee,** *Des Moines,* District Associate Judge; **Martha Mertz,** *Knoxville,* District Court Judge.

Milestones: Service Anniversaries

25 Years

30 Years

Linda Carroll Kinney, Juvenile Court Officer, *Henry County*.

Steve Bernemann, Juvenile Court Officer, *Poweshiek County.*

Margaret Hannam, Judicial Clerk, *Polk County*.

Karen Purcell, Clerk of Court, *Cerro Gordo County*.

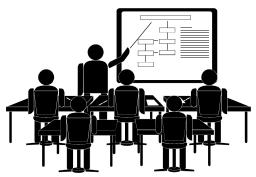
Karen Hibben-Levi, District Court Administrator, *Black Hawk County*.

Gerald Olson, Court reporter, *Black Hawk County*.

Recent Iowa Criminal Decisions

he Bench Press will no longer carry the criminal decisions summaries by Assistant Attorney General Ann Brenden. Cases can be researched both chronologically and by subject at www.iowa-icaa.com. Click on Case Updates, Chronological and Criminal Cases.





Juvenile Court IV-E Conference

he Juvenile Court IV-E Conference will be held May 30-31, 2002, at the Clarion Des Moines Hotel (formerly Four Points) in Des Moines.

The conference will commence at 9:45 a.m. Thursday, May 30 and conclude at 3:15 p.m. Friday, May 31. All juvenile court officers are expected to attend the full Conference.

Chief Juvenile Court Officers will be receiving an agenda and other information in the near future.

The Conference is funded by a federal grant to the Iowa Court Improvement Project.

Magistrate School

he 2002 School of Instruction for Magistrate will be held Thursday, June 27, at the Starlite Village Motel in Ames. Following registration, the Conference will begin at 9:30 a.m. and conclude at 4 p.m. Thursday, June 27. The program will include presentations on new legislation and case law, criminal matters, small claims and ethics.

Pursuant to the Court Rules 210 and Iowa Code §602.6403(8), all magistrates are required to attend the School of instruc-

tion unless excused for good cause by the Chief Justice.

The one-day program is funded by a grant from the National Highway Traffic Safety Administration.

Third Judicial District of Iowa Announces the Second Annual Law School 101

by Leesa A. McNeil, District Court Administrator

oin the Third Judicial District of Iowa and the Young Lawyers Division of the Iowa State Bar Association for the second annual "Law School 101" Thursday, April 18, 2002, from 6:00 P.M. to 8:30 P.M. in celebration of Law Day 2002. This event will be held at the Woodbury County Courthouse, 7th and Douglas, and is open to the public *free of charge*.

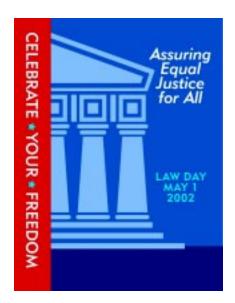
Judges and attorneys from Sioux City will be volunteering time to make short presentations regarding specific areas of law and will be fielding questions from the audience. There will be five topics presented, each lasting 45 minutes. Participants can then rotate to another subject, allowing the attendees to hear presentations on four out of the five topics of law. Refreshments will be available throughout the evening.

Judges and attorneys will conduct the classes that will cover topics including: Overview of the State and Federal Courts; Domestic and Juvenile Law; Traffic Court

and Small Claims; Wills and Probate; and Criminal Law.

Law Day U.S.A. was established in 1958 by President Dwight D. Eisenhower to strengthen the nations great heritage of liberty, justice and equality under law. In 1961, May 1 was designated by a joint resolution of Congress as the official date for celebrating Law Day U.S.A. This year's theme is "Assuring Equal Justice for All."

Celebrate Law Day by Discovering More About Our Justice System On-line



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Iowa Courts: www.judicial.state.ia.us

This site provides general information about the Court System in Iowa. An individual can also be connected to on-line information on public court records (www.iowacourtsonline.org), job opportunities in the Judicial Branch and recent Iowa Supreme Court opinions.

Iowa State Bar Association:

www.iowabar.org

This site provides information about contacting an attorney and provides a free attorney referral service, as well as, a link for free legal assistance for seniors. In addition, specific legal topics and some forms are available such as Living Wills and durable Power of Attorney.

Law Day Quiz: www.lawday.org (suitable for students and other citizens)

This site links to an on-line quiz on the Law Day theme of "Assuring Equal Justice for All." This site also lists activities around the country that celebrate Law Day.

American Judicature Society:

www.ajs.org

This site provides three articles on self-representation and provides guidelines for judges and clerks who work with pro se litigants. This site also links to nearly 30 pro se websites, ranging from state and local court self-help sites with forms and instructions to other national organizations.



Clay County Courthouse

n 2001 the 100th anniversary of the Clay County Courthouse was observed. Commemorative memorabilia including coins, key chains, cookbooks and afghans were sold to raise funds for the Courthouse Renovation Project.

The courthouse, a beautiful red stone structure was erected in 1900. The courthouse, with its pillars and a bronze dome cost \$60,000.

Clay County Clerk Staff



(left to right) Val Moermond, Laurie Janssen, Deb Dietrich, Carol Anderson, Connie Severson and Jane Hussey. (not pictured) Cindy Lorenzen